

## EXAMINING LEGAL FRAMEWORKS AND VICTIMOLOGY PERSPECTIVES IN ADDRESSING BULLYING CRIMES AGAINST PERSONS WITH DISABILITIES: A CASE STUDY OF WEST LOMBOK REGENCY

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### Article Info

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### Abstract

This study investigates the legal safeguards for victims of bullying crimes, both through social media channels and direct encounters, with a particular focus on persons with disabilities. While legal responses to bullying incidents typically center on prosecuting the perpetrators, this research sheds light on the often-overlooked rights of victims, specifically those with disabilities. The analysis reveals that bullying against persons with disabilities is influenced by factors stemming from family dynamics, school environments, peer groups, societal norms, the media, television, and individual personality traits. The existing criminal justice system in Indonesia, lacking specific regulations addressing bullying, relies on the general criminal code, particularly concerning defamation. Unfortunately, victims with disabilities are often relegated to passive objects, with their rights disregarded. The legal protection afforded to them primarily hinges on Indonesian Criminal Code Article 310 paragraphs (1) and (2) and Law Number 19 of 2016, amending Law Number 11 of 2008 on Information and Electronic Transactions, particularly Article 27 paragraph (3) and Article 145. Additionally, a victimology perspective analysis categorizes victims of bullying crimes against persons with disabilities as biologically weak victims, emphasizing their vulnerability due to physical conditions. The findings offer significant insights for scholars and practitioners seeking a comprehensive understanding of the challenges faced by victims and the legal implications within the Indonesian context.

## INTRODUCTION

Persons with disabilities represent a segment of society that requires special protection from various forms of crimes, particularly bullying, which is pervasive in Indonesian educational settings such as elementary, high school, and even university environments (Sucipto, 2012). The focus of this research is to comprehensively examine the legal frameworks and victimology perspectives pertaining to bullying crimes against persons with

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disabilities in West Lombok Regency. Within this context, the study will particularly address the often neglected rights of victims in the face of bullying incidents, shedding light on the unique challenges faced by individuals with physical, intellectual, mental, or sensory limitations.

In Indonesia, bullying against persons with disabilities encompasses a range of behaviors, including intimidation, violence, differentiation, exclusion, harassment, and restrictions, reflecting the struggles faced by these individuals in fully participating in society (Lievense et al., 2019). This phenomenon is especially prevalent in educational institutions, where acts of bullying against those with physical limitations are unfortunately normalized (Sucipto, 2012).

The Indonesian Child Protection Commission defines bullying as a sustained form of physical and psychological violence perpetrated by individuals or groups who exploit the vulnerability of those unable to defend themselves. Victims, in this context, endure physical, mental, and economic losses resulting from such crimes (Blomqvist et al., 2020; Garland & Hodkinson, 2014). The state's responsibility to protect and handle both direct and indirect victims is outlined in Law Number 31 of 2014 concerning the Protection of Witnesses and Victims.

Protection, as defined by Article 1 Number 5 of Law Number 8 of 2016 concerning Persons with Disabilities, encompasses conscious efforts to safeguard and strengthen the rights of persons with disabilities. However, the existing legal framework, including Indonesian Criminal Code Article 310 and Law Number 19 of 2016, still faces challenges in adequately addressing the unique vulnerabilities of victims with disabilities. This becomes apparent in instances of bullying, where victims are often treated as passive objects, and their rights are overlooked.

Despite the alarming prevalence of bullying against persons with disabilities, there is a notable absence of specific regulations addressing this issue in Indonesia. This research aims to bridge this gap by conducting a case study in West Lombok Regency, exploring the factors contributing to bullying crimes against persons with disabilities, analyzing the existing legal protections, and offering valuable insights for scholars and practitioners.

### **Literature Review:**

In line with the definition provided by Law Number 8 of 2016, persons with disabilities encompass those experiencing physical, intellectual, mental, and sensory limitations that hinder their full and effective participation in society (The Republic of Indonesia, 2016b). Bullying against persons with disabilities, therefore, involves oppressive behaviors aimed at ridiculing or causing mental or physical harm to individuals with such limitations (Zych, Farrington, & Ttofi, 2019). The diverse range of disabilities includes physical, intellectual, mental, and sensory impairments, emphasizing the need for a nuanced understanding of the challenges faced by these individuals (The Republic of Indonesia, 2016b).

Bullying can take various forms, such as verbal bullying, physical bullying, relational bullying, and electronic bullying, each contributing to the systematic degradation of the victim's self-esteem through different means (Alhaboby et al., 2016; Wicaksana, 2008). These actions, driven by an imbalance of power, can result in severe physical and emotional consequences for the victims, especially those with disabilities (Hinduja & Patchin, 2007). The impacts of bullying on victims with disabilities are multifaceted, including headaches, stomachaches, insomnia, depression, anxiety, and, in extreme cases, hospitalization (Riauskina et al.). The long-term effects extend to diminished psychological well-being and poor social adjustment, as victims grapple with negative emotions and feelings of worthlessness (Hinduja & Patchin, 2007). Particularly concerning is the increased fear for safety offline, as victims of cyberbullying may experience intimidation and mistreatment in both online and offline realms (Hinduja & Patchin, 2007).

As highlighted by Dr. Jorge Srabstein, bullying among people with disabilities raises serious health concerns, exacerbating both physical and emotional issues. The detrimental impacts are profound, affecting victims' psychological well-being, social adjustment, and overall quality of life (Newsmaxhealth.com). This research aims to contribute to the understanding of the factors contributing to bullying crimes against persons with disabilities, the existing legal frameworks, and potential avenues for improving the protection and well-being of these individuals in West Lombok Regency.

## RESEARCH METHODOLOGY

### *Research Design*

The data used are primary. The type of research is descriptive qualitative, which provides a complete picture of the norms (Soekanto & Mamudji, 2012). The application of law protection to victims of bullying crimes to persons with disabilities. The research will be conducted by studying field and library materials in applicable formal literature and law.

### *Research Respondents*

The respondent that the author used in this study is three people, namely as follows.

## RESULTS

### *Factors That Cause Bullying Crimes Towards Persons With Disabilities*

The perpetrators of bullying crime are caused by various factors both from the perpetrators and outside the perpetrators themselves. The behavior of bullying is not apart from the experience of personal perpetrators, as revealed by Jon Garland and Paul Hodgkinson ' experiences of harassment and victimization were diverse within the sample. However, all had, at one time or another, been subjected to derogatory stares or comments at the very least (Garland &

Table 1 *Respondents*

No.	Name	Respondent
1	Head of Service Center Technical Implementation Unit Integrated Empowerment of Women and Children	1
2	Head Of Trauma Protection House Center	1
3	Head Of Madrasah Alyah Almanshuriyah Kereak Pandan Indah Village	1

Hodgkinson, 2014). As for the causes of the behavior of bullying crimes to disabilities (Astuti, 2008).

Family factors: Perpetrators of bullying crimes to disabilities because it has been receiving treatment bullying on her/his family. So that he grows up in an aggressive and abusive family and even mimics these habits in his daily life to ridicule disabilities. They often even commit physical and verbal violence that is done to others due to bad behavior from their family. A study shows that aggressive behavior increases in children who witness the violence committed by the father against his mother can affect the child's growth and development.

School actors: The school often ignores the existence of this bullying. As a result, children as bullying will get reinforcement of their behavior to intimidate other children. Bullying is growing rapidly in the school environment, often giving negative input to students, for example, in the form of punishment that is not constructive, so it does not develop a sense of respect and respect among fellow school members.

Peer group factors: Children, when interacting in school and with friends around the house, sometimes are encouraged to bullying. Some children are bullying to prove that they can belong to a particular group, even though they feel uncomfortable with the behavior.

Social, environmental conditions: Social conditions can also be a cause of bullying behavior. One of the social, environmental factors that cause bullying is poverty. Those who live in poverty will do anything to meet their daily needs, so it is not surprising that there is often bullying between students in schools.

Television and media social: Television and print media shape the pattern of bullying behavior in terms of the shows they display. A compass survey (Saripah, 2006) showed that 56.9% of children imitated the scenes of the films they watched. Generally, they imitated their movements (64%) and words (43%).

Personality factors: Someone active and impulsive is more likely to apply to bully than someone passive or shy. Pelaku bullying is a way to gain popularity, attention or acquire the goods they want. Usually, they are afraid of the act of bullying befalls them so that they precede applying bullying to others to form an image as brave.

The respondent that the author used in this study is three people, namely as follows.

Table 2 *Victims in Trauma Center Protection House Based on Age Classification*

No.	Age Cluster	Gender	Status	Number of Victims
1	15-20 Years	girl	Returned	Four people
2	22-30 Years	girl	Returned	24 People
3	No description	girl	Returned	51 People
	Amount			75 people

#### *Law Protection Victims of Bullying Crimes to Persons With Disabilities*

Indonesia does not have official regulation of bullying crimes. So that the perpetrators of bullying cannot be judged for what the victim wants, considering the bad effects felt by the victim, both physically and psychologically, and legal protection for victims with mental disorders (persons with disabilities). In legal protection in Indonesia against victims of bullying crime for persons with disabilities still use Criminal Law Article 310 paragraphs (1) and (2): Anyone who intentionally attacks someone's honor or reputation by accusing something, which means that it is clear that it is known publicly, is threatened because of pollution, with a maximum jail sentence of nine months or a maximum fine of four thousand and five hundred rupiahs. This article also applies to persons with disabilities in Indonesia.

While bullying crimes are committed through social media, for example, insult or defame to persons with disabilities, then the law protection can be used (Molina, 2016); Law Number 19 of 2016 concerning Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions Article 27 paragraph (3) highlights: Every Person intentionally and without the right to distribute and or transmit and or make access to electronic information and or electronic documents that have content of defamation and or defamation (The Republic of Indonesia, 2016a).

Meanwhile, victims of bullying crimes can submit it to a government institution, namely the Witness And Victim Protection Institution, to fulfill their rights. In Indonesia, persons with disabilities as victims of bullying can claim their rights to perpetrators through the institution as mentioned in Article 7A (1) of the Republic of Indonesia Law Nomor 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims (The Republic of Indonesia, 2006) that, the victim of a criminal offense is entitled to restitution in the form of, a. compensation for loss of wealth or income, b. damages incurred due to suffering directly related to a criminal offense; and c. reimbursement of medical and psychological care costs.

## DISCUSSION

According to Dikdik and Gultom (2008), victimization is a study in which the object of which parties are involved/influences the occurrence of victimization (criminal), how is the response to victimization, the factors causing the occurrence of victimization, and so on. The understanding explained by Gosita (1989) is in line with Dikdik's opinion that victimization is a scientific knowledge/study that studies victimization (criminal) as a human problem

which is a social reality.

The victims both individually and collectively experience suffering and loss, including physical or mental, emotional, economic loss, substantial interference with their fundamental rights (Hinduja & Patchin, 2007; Mansur & Gultom,

2007). The definition of victim in article 1 of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power states, "victim means a person who, individually or collectively has suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental right, through acts or omissions including those laws proscribing criminal abuse of power (Office of the United Nations High Commissioner for Human Rights, n.d.).

Thus in terms of victimization, it can be understood that the victim of a crime of bullying against a person with a disability is a person or group of people who experience physical, intellectual, mental limitations, both in interacting and adapting with others and the environment experiencing suffering and loss including physical and mental losses resulting from behavior oppress, mock, intimidate physically or in a mint.

When viewed from the perspective of the responsibility of the victims themselves, the typology of victims can be divided into several groups in the opinion of Stephen Schafer quoted by William G. Doerner and Steven P. Lab "Schafer provided a typology that builds upon victim responsible for the crime." (Gosita, 1989).

- Unrelated victims
- Proactive victims
- Participating victims
- Biologically weak victims
- Socially weak victims
- Self victimizing victims
- Political victims

Therefore, in terms of the responsibility of victims of bullying crimes against persons with disabilities, it is included in the typology of socially weak victims where victims are socially weak and difficult to socialize and communicate because physically disabled people have limitations.

Crime can occur when there are three conditions at once, namely the right target, the motivated perpetrator, and the absence of security (Agnew, 2016; Ceccato, 2016). So in terms of victimology emergence, victims of bullying against people with disabilities because of the lack of accessibility are provided by the government or an institution that can provide convenience for persons with disabilities to achieve equality of opportunity. Second, the lack of adequate accommodation for the right modification and adjustment needed to guarantee the enjoyment or implementation of all human rights and fundamental freedoms for persons with disabilities based on equality. Third, the lack of aids or objects that function to help the independence of people with disabilities carry out daily activities so that the perpetrators of bullying easily intimidate, ridicule, and insult the victim (Emerson et al., 2021).

## LIMITATIONS AND RECOMMENDATIONS

The recommendations that the author can recommend in this research are as follows:

1. The government is responsible for fulfilling Law Enforcement to the Protection of Victims of bullying crimes from physical and non-physical violence to obtain protection in accordance with the laws and regulations as appropriate.
2. The government makes a special law regarding law enforcement to protect bullying victims from physical and non-physical violence directly or through social media and provide criminal sanctions to perpetrators.

## CONCLUSION

Bullying is a negative behavior or action carried out repeatedly. The action is intentionally carried out to injure someone with a disability or someone who has physical, mental, and intellectual limitations, even sensory, within an indeterminate period. The factors causing bullying crimes against persons with disabilities in Indonesia include family factors, school factors, peer group factors, social, environmental conditions, television shows, and social media and personality factors.

While the protection of victims of bullying crimes to persons with disabilities is contained in the Criminal Code Article 310 paragraphs (1) and (2). Law Number 19 the Year 2016 concerning Amendment to Law Number 11 the Year 2008 concerning Information and Electronic Transactions Article 27 Paragraph (3) Article 145. From the perspective of the responsibility of the victims themselves, the typology of victims of socially weak victims. the emergence of victims of bullying against persons with disabilities due to lack of accessibility, accommodation, assistive devices provided by the government or a particular institution

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